

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7875**

**BILL NUMBER:** SB 444

**NOTE PREPARED:** May 3, 2005

**BILL AMENDED:** Apr 29, 2005

**SUBJECT:** Methamphetamine.

**FIRST AUTHOR:** Sen. Young R Michael

**FIRST SPONSOR:** Rep. Friend

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill contains the following provisions:

*Meth Watch Program:* The bill requires the Criminal Justice Institute to operate a meth watch program.

*Methamphetamine Lab Reporting:* This bill requires a law enforcement agency that terminates the operation of a methamphetamine laboratory to report the existence and location of the laboratory to the State Police, fire department, and county health department. It specifies that a law enforcement agency that discovers a child less than 14 years of age at a methamphetamine laboratory must notify the Division of Family and Children. It also requires the State Police to adopt guidelines and a form for the use of a retailer in recording a transaction involving ephedrine or pseudoephedrine.

*Certified Inspector List:* This bill requires the Department of Environmental Management to maintain a list of persons certified to inspect or clean up property polluted by chemicals used to manufacture a controlled substance.

The bill adds certain chemical reagents to the list of chemical reagents and precursors used in the manufacture of methamphetamine.

It prohibits a retailer from selling a drug containing ephedrine or pseudoephedrine: (1) to a person less than 18 years of age; and (2) in a quantity greater than three grams in one transaction. The bill requires a retailer to store drugs containing ephedrine or pseudoephedrine: (1) behind a counter or in a locked case that makes the drugs unavailable to customers without the assistance of a store employee; or (2) directly in front of the

pharmacy counter, in the line of sight of an employee behind the pharmacy counter, and in an area under constant video monitoring, if the retail establishment in which the drugs are sold is a pharmacy or contains a pharmacy that is open for business.

The bill requires a retailer to record certain information concerning a person who purchases a drug containing ephedrine or pseudoephedrine by requiring the purchaser to present identification and record certain information in a log that may be made available to law enforcement officers in accordance with state or federal law. It grants a retailer immunity from civil liability for the good faith disclosure of this information. The bill also prohibits a person from purchasing more than three grams of ephedrine or pseudoephedrine in one week.

It requires a retail distributor, wholesaler, or manufacturer to report suspicious orders to the State Police, and requires a retailer to report unusual thefts to the State Police. It provides that a retailer who has suffered three unusual thefts in a 30 day period must store all drugs containing ephedrine or pseudoephedrine behind the counter or in a locked case for 180 days.

The bill makes knowing or intentional violation of the ephedrine or pseudoephedrine sale or purchase restrictions a Class C misdemeanor, and enhances the penalty to a Class A misdemeanor for second or subsequent violation.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Meth Watch Program:* The bill requires the Criminal Justice Institute to develop and maintain a meth watch program for the purpose of informing retailers and the public about the illicit production, distribution and use of methamphetamine in Indiana. It also requires the Institute to work in consultations with the State Police Department and other law enforcement agencies. Because both the Institute and the Department already have business and community meth awareness programs in place, the fiscal impact of this provision is dependent on the extent to which the Institute or Department requires additional resources in order for their existing programs to fulfil these new provisions.

*Methamphetamine Lab Reporting:* The bill requires the State Police Department to develop either a reporting form, a specified electronic format, or both, by which law enforcement agencies can report the location of a methamphetamine lab. This provision should have a minimal fiscal impact on the Department, however, it may be dependent on the guidelines set by the Department for administering the reporting requirement.

*Certified Inspector List:* The bill requires the Department of Environmental Management to maintain a list of certified inspectors and allows the Department to adopt rules to implement the list. The fiscal impact of this provision is dependent on the extent of the list and the resources required for establishing and maintaining such a list.

*Penalty Provision:* In regards to committing a Class D felony, this bill expands the list of chemical reagents or precursors that one may be found in possession of with the intent to manufacture certain controlled substances. The bill also reduces the list of ephedrine-related substances that one may be found in possession of more than 10 grams. The former provision could potentially increase Class D felony convictions, while the latter could potentially decrease such convictions.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by

a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months, or two years for a Class C felony.

**Explanation of State Revenues:** *Penalty Provision:* The bill makes it a Class C misdemeanor for improperly selling a drug containing ephedrine and/or pseudoephedrine and makes it a Class A misdemeanor if the offender has a prior unrelated judgement or conviction or commits the crime knowingly or intentionally.

If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000, and a Class C misdemeanor is \$500. However, any additional revenue would likely be small.

The maximum fine for a Class D felony and a Class C felony is \$10,000. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44. A Class A misdemeanor is punishable by up to one year in jail and a Class C misdemeanor is punishable by up to 60 days in jail.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Department of Correction, State Police Department, Department of Environmental Management, Criminal Justice Institute.

**Local Agencies Affected:** Trial courts, city and town courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; Department of Correction;

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